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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,595	12/30/2003	Mark W. Fero	LEAR 04166 PUS (04166)	8228

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EXAMINER

ENGLE, PATRICIA LYNN

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,595

Applicant(s)

FERO ET AL. LM

Examiner

Patricia L Engle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/30/03</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 6-15, 17, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Tiesler et al. (US 6,685,262, filed on March 26, 2003).

Regarding claim 1, Tiesler et al. disclose a headliner assembly for a vehicle, the headliner assembly comprising: a headliner body (1) having first (3) and second (2) surfaces, the first surface (3) being configured to face toward a roof (Fig. 7) of the vehicle and the second surface (2) being disposed opposite the first surface; and a flexible air duct (4) attached to the first surface (Fig. 1), the flexible air duct (4) having an inlet (8) for receiving pressurized air and a duct portion (9) that channels the pressurized air; wherein the flexible air duct (4) inflates when air is provided through the inlet (8) and at least partially deflates when air is not provided through the inlet.

Regarding claim 2, Tiesler et al. disclose the headliner assembly of claim 1 wherein the flexible air duct (4) includes a first flexible layer (4) that inhibits air leakage and a second flexible layer (5) attached to and thicker than the first flexible layer (Fig. 1), the second flexible

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layer being partially compressed to increase density of the second flexible layer and to maintain a desired shape when air is not provided through the inlet.

Regarding claim 3, Tiesler et al. disclose the headliner assembly of claim 2 wherein the first flexible layer (4) is a polyethylene film (column 6, line 49).

Regarding claim 6, Tiesler et al. disclose the headliner assembly of claim 1 further comprising a support member (Fig. 1) for supporting a section of the flexible air duct when the flexible air duct is at least partially deflated.

Regarding claims 7 and 8, MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is that same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." The headliner assembly is anticipated by Tiesler et al.. The process by which the air duct is attached to the headliner is made is not a patentable distinction.

Regarding claim 9, Tiesler et al. disclose the headliner assembly of claim 1 further comprising a vent aperture (9) extending through the headliner body (1) that receives pressurized air from the flexible air duct (4).

Regarding claim 10, Tiesler et al. disclose a headliner assembly for a vehicle, the headliner assembly comprising: a headliner body (1) having a plurality of material layers (1,8) disposed substantially parallel to each other, the headliner body including: an upper surface (3) disposable adjacent to a vehicle roof; a lower surface (2) disposed opposite the upper surface; a vent aperture (9) disposed in the plurality of material layers; and a speaker (column 1, lines 40-46) disposed in the plurality of material layers; and a flexible air duct (4) having a perimeter attached to the upper surface (3) to define an air conduit (Fig. 1); wherein the flexible air duct (4)

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is configured to inhibit resonance (the material supporting the duct would inhibit resonance) in response to an audio signal from the speaker.

Regarding claim 11, Tiesler et al. disclose the headliner assembly of claim 10 wherein the flexible air duct (4) is inflated when pressurized air is provided through an inlet (8) and partially deflated when pressurized air is not provided through the inlet.

Regarding claim 12, Tiesler et al. disclose the headliner assembly of claim 11 wherein the flexible air duct inhibits noise transmission when deflated (the material (5) would inhibit resonance regardless of the state of the duct).

Regarding claim 13, Tiesler et al. disclose the headliner assembly of claim 10 wherein the flexible air duct has a first flexible layer (4) for inhibiting air leakage and a second flexible layer (5) disposed opposite the first flexible layer, the second flexible layer having a perimeter attached to the upper surface to define the air conduit.

Regarding claim 14, Tiesler et al. disclose the headliner assembly of claim 13 wherein the second layer (5) is partially compressed to retain a predetermined shape.

Regarding claim 15, Tiesler et al. disclose a headliner assembly for a vehicle, the headliner assembly comprising: a headliner body (1) including: a first surface (3) disposed adjacent to a roof of the vehicle; a second surface (2) disposed opposite the first surface; and a vent aperture (9) passing through the first and second surfaces; and a flexible body including: a flexible insulation layer (5) for providing acoustic insulation; and a flexible barrier layer (4) for inhibiting air leakage disposed between the flexible insulation layer and the first surface; wherein a portion of the flexible barrier layer (4) is attached to the first surface (3) to define a flexible air

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duct (Fig. 1) that inflates when air is provided through an inlet (8) and deflates when air is not provided through the inlet.

Regarding claim 17, Tiesler et al. disclose the headliner assembly of claim 15 wherein the flexible barrier layer (4) is disposed on a section of the flexible insulation layer (5).

Regarding claim 19, Tiesler et al. disclose the headliner assembly of claim 15 wherein the flexible insulation layer (5) is partially compressed to retain a shape in an area adjacent to the flexible air duct (4).

Regarding claim 20, Tiesler et al. disclose the headliner assembly of claim 15 further comprising a speaker (column 1, lines 40-46) disposed in the headliner body wherein the flexible body does not resonate (the material supporting the duct would inhibit resonance) in response to an audio signal from the speaker.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiesler et al.

Tiesler et al do not disclose that the second flexible layer is a lofted polyester material or a woven material. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a lofted polyester or a woven material for the second flexible layer as it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiesler et al. in view of Kojima (US 2003/0096129, filed on November 5, 2002).

Tiesler et al. disclose the headliner assembly of claim 15.

Tiesler et al. do not disclose that the headliner assembly covers substantially all of the headliner body.

Kojima discloses a flexible duct attached to the headliner body and covers substantially all of the headliner body (Figs. 5-7).

Tiesler et al. and Kojima are analogous art because they are from the same field of endeavor, i.e., flexible ducts for headliners.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to make the duct assembly in such a manner that it covered substantially all of the headliner body.

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The motivation would have been to increase the flexibility of the headliner body and to make attaching the duct to the headliner simple (because the duct would align with the headliner).

Therefore, it would have been obvious to combine Kojima with Tiesler et al. to obtain the invention as specified in claim 16.

Allowable Subject Matter

7. Claim 18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777. The examiner can normally be reached on Monday - Friday from 8:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia L Engle

Examiner

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September 17, 2004